

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 18.07.2018

FAO 1915 of 2012 (O&M)

Reliance General Insurance Co Limited *Appellant*

Versus

Munni Devi and others *Respondents*

FAO 1746 of 2013 (O&M)

Munni Devi and others *Appellants*

Versus

Jagdish Singh and others *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Arun Sharma, Advocate
for T K Joshi, Advocate
for the insurance company (in FAO 1915 of 2012)

Mr. Subash Goyal, Advocate
for the insurance company (in FAO 1746 of 2013)

Ms Lipika Mamli, Advocate
for the claimants.

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Rekha Mittal, J. (Oral)

CM 8873 CII of 2012 in FAO 1746 of 2013

Prayer in this application is for condoning delay of 313 days in
filing the appeal.

In view of averments made in the application supported by an
affidavit of one of the applicants/appellants namely Munni Devi and
arguments advanced by counsel for the parties, the application is allowed
and delay of 313 days in filing the appeal stands condoned, subject to
condition that in case, the appellants succeed in appeal, they will forgo

interest for the period of delay.

Main Appeals

This order will dispose of aforesaid appeals as these have emerged out of award dated 04.11.2011 passed by the Motor Accidents Claims Tribunal, Fatehabad (hereinafter to be referred as 'the Tribunal') whereby compensation has been allowed on account of death of Nachhatar Pal Singh alias Ajay in a motor vehicular accident that took place on 10.08.2010.

FAO 1915 of 2012 has been filed by the insurance company (hereinafter to be referred as the insurance company) to assail quantum of compensation assessed by the Tribunal whereas FAO 1746 of 2013 has been filed by the claimants seeking enhancement of compensation.

The Tribunal has awarded compensation of Rs.5,11,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.4,500.00
Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs.4,86,000.00
Funeral expenses	Rs.20,000.00
Loss to estate	Rs.5,000.00

There is no clear evidence on record with regard to income of the deceased. The Tribunal has assessed income of deceased at Rs.4,500.00 per month by treating him as a casual labour. When the case is examined in the light of notification issued by the State of Haryana, fixing minimum wage at the relevant time, income of deceased assessed by the Tribunal is liable to be affirmed and ordered accordingly. The deceased was 23 years old son of claimants Munni Devi and Rama Nand. Claimants shall be entitled to addition in income for future prospects at the rate of 40%.

Deduction for personal expenses and multiplier adopted are correct and affirmed. In this context, reference can be made to judgments of Hon'ble the Supreme Court *Sarla Verma and others v. Delhi Transport Corporation and another* 2009(3) R.C.R. (Civil) 77, *Munna Lal Jain and another Vs. Vipin Kumar Sharma and others*, (2015) 6 SCC 347 and *National Insurance Company Limited v. Pranay Sethi and others*, 2017 SC 1270.

In view of the above, loss of dependency is calculated at Rs.6,80,400.00 (Rs.9,72,000.00 i.e. 4,500 x 12 x 18 + Rs.3,88,800.00 (40% addition in income) – Rs.6,80,400.00 (50% deduction))

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitled to Rs.30,000.00, detailed hereunder:-

Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.7,10,400.00 and additional amount is Rs.1,99,400.00 (Rs.7,10,400.00 – Rs.5,11,000.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay, to mother of the deceased.

For the foregoing reasons, appeal (FAO 1915 of 2012) filed by the insurance company fails and is accordingly dismissed. However, appeal (FAO 1746 of 2013) filed by claimants is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

18.07.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No